Chang et al v. Virgin Mobile USA LLC et al Doc. 4

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SUSAN CHANG, as Next Friend of	§	
ALISON CHANG, a Minor, et al.,	§	
	§	
Plaintiffs,	§	
	§	Civil Action No. 3:07-CV-1767-D
VS.	§	
	§	
VIRGIN MOBILE USA, LLC, et al.,	§	
	§	
Defendants.	§	

ORDER

Defendant Virgin Mobile USA, L.P.'s ("Virgin Mobile's") notice of removal, filed October 19, 2007, appears to predicate subject matter jurisdiction upon diversity of citizenship, 28 U.S.C. § 1332, but fails to allege properly the citizenship of defendant Creative Commons Corporation ("Creative Commons").

Virgin Mobile alleges in its complaint that Creative Commons "is a Massachusetts Nonprofit Corporation with its *principal office* in Cambridge, Massachusetts." (emphasis added) *See* Not. of Rem. § II. It must allege Creative Commons' *principal place of business*. A corporation is considered to be a citizen both of its state of incorporation and of its principal place of business. *See Ill. Cent. Gulf R.R. Co. v. Pargas, Inc.*, 706 F.2d 633, 637 (5th Cir. 1983) (holding that "a complaint properly asserting diversity jurisdiction must state both the state of incorporation and the principal place of business of each corporate party.").

Until Virgin Mobile alleges the citizenship of Creative Commons, this court is not shown to have subject matter jurisdiction. *See Am. Motorists Ins. Co. v. Am. Emps.' Ins. Co.*, 600 F.2d 15, 16 (5th Cir. 1979). Accordingly, no later than 20 days from the date of this order, Virgin Mobile

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must file an amended notice of removal that alleges diversity of citizenship in conformity with 28 U.S.C. § 1332; otherwise, this action will be remanded to state court.

The court has not specifically evaluated whether the notice of removal complies with N.D. Tex. Civ. R. 81.1. If Virgin Mobile is satisfied that the notice of removal complies with Rule 81.1 and that additional documents are unnecessary to address the defects identified in this order, the amended notice of removal required by this order need not also contain the documents required by Rule 81.1.

SO ORDERED.

October 26, 2007.

SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE